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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,294	09/16/2003	Brad W. Lorton	9948IP-17COB	2614
27572	7590	03/10/2004	EXAMINER	
HARNES, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			SHAW, ELIZABETH ANNE	
			ART UNIT	PAPER NUMBER

3644

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,294

Applicant(s)

LORTON ET AL.

Examiner

Elizabeth A. Shaw

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/16/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,655,320. Although the conflicting claims are not identical, they are not patentably distinct from each other because both discuss a method of raising poultry comprising the steps of providing a facility for housing the poultry having an interior and providing at least one ventilation fan adapted to restrict the transmission of light into the facility.

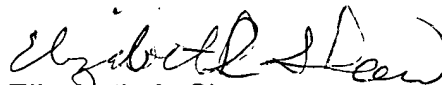
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Shaw whose telephone number is 703-308-1853. The examiner can normally be reached on M-Th 9:00-4:30.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached on 703-306-4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Elizabeth A. Shaw
Examiner
Art Unit 3644

March 5, 2004


CHARLES T. JORDAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

CLAIMS

What is claimed is:

- 1. A method of raising poultry comprising the steps of:**
providing a facility for housing the poultry having an interior; and
providing at least one ventilation fan adapted to restrict the transmission of light
into the interior of the facility.
- 2. The method of Claim 1, wherein at least a portion of the at least one**
ventilation fan comprises either a light absorbing coating or a light-absorbing resin.
- 3. The method of Claim 2, wherein the light-absorbing coating includes an**
opaque gel coat.
- 4. The method of Claim 1, further comprising producing light cycles to mimic**
daylight duration variation representative of seasonal changes.
- 5. The method of Claim 4, further comprising exposing the interior of the**
facility to natural light cycles of an outside environment for a period.
- 6. The method of Claim 1, further comprising limiting exposure of the interior**
of the facility to produce a brown-out lighting effect in the interior of the facility.

7. The method of Claim 1, further comprising the step of providing a climate control device for controlling an environment within the interior.

8. The method of Claim 1, further comprising the step of providing a shutter mounted to the at least one ventilation fan, the shutter selectively enabling air flow therethrough.

9. The method of Claim 1, further comprising the step of providing a light trap associated with the at least one light-absorbing ventilation fan for further prohibiting light transmission into the facility.

10. The method of Claim 1, further comprising the step of providing at least one selectively coverable opening for selectively enabling passage of light into the interior.

11. A method of raising poultry for improved food production, comprising the steps of:

providing a facility for housing poultry with at least one wall forming an interior, the at least one wall having a ventilation opening from an exterior environment to the interior; and

providing a ventilation fan in the ventilation opening, the ventilation fan being adapted to restrict the transmission of light into the interior of the facility through the ventilation opening.

12. The method of Claim 11, wherein at least a portion of the ventilation fan comprises either a light absorbing coating or a light-absorbing resin.

13. The method of Claim 12, wherein the light-absorbing coating includes an opaque gel coat.

14. The method of Claim 11, further comprising producing light cycles to mimic daylight duration variation representative of seasonal changes.

15. The method of Claim 14, further comprising exposing the interior of the facility to natural light cycles of an outside environment for a period.

16. The method of Claim 11, further comprising limiting exposure of the interior of the facility to produce a brown-out lighting effect in the interior of the facility.

17. The method of Claim 11, further comprising the step of providing a climate control device for controlling an environment within the interior.

18. The method of Claim 11, further comprising the step of providing a shutter mounted to the ventilation fan, the shutter selectively enabling air flow therethrough.

19. The method of Claim 11, further comprising the step of providing a light trap associated with the ventilation fan for further prohibiting light transmission into the facility.

20. The method of Claim 11, further comprising the step of providing at least one selectively coverable opening for selectively enabling passage of light into the interior.